

BAKER DECLARATION

EXHIBIT D

The Honorable Robert J. Bryan

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

STATE OF WASHINGTON,

Plaintiff,

v.

THE GEO GROUP, INC.,

Defendant.

Case No.: 3:17-cv-05806-RJB

**GEO'S SECOND SET OF REQUESTS
FOR PRODUCTION PROPOUNDED
TO THE STATE OF WASHINGTON**

**THE GEO GROUP, INC'S SECOND SET OF REQUESTS FOR PRODUCTION
PROPOUNDED TO THE STATE OF WASHINGTON**

TO: STATE OF WASHINGTON

AND TO: Attorney General Bob Ferguson and his assistant attorneys La Rond Baker, Andrea Brenneke, and Marsha Chien.

Pursuant to Federal Rules of Civil Procedure ("Fed. R. Civ. P.") 26, 33, and 34, You are served with GEO's Second Set of Requests for Production to the Plaintiff. Return the answers and responses under oath to III Branches Law, PLLC, 1019 Regents Blvd. Suite 204, Fircrest, WA 98466, within thirty (30) days of service.

STATE OF WASHINGTON V. GEO GROUP
ECF CASE NO. 3:17-cv-05806-RJB
GEO'S SECOND SET OF REQUESTS FOR
PRODUCTION PROPOUNDED TO THE
STATE OF WASHINGTON

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INSTRUCTIONS

1. The following requests for production shall be answered within 30 days of service. These requests for production are continuing in nature and You must produce supplemental answers and documents and things promptly in accordance with Fed. R. Civ. P. 26(e). Supplemental responses should follow the same format. A word version of the document accompanies service to allow Plaintiff to interlineate a complete response as needed. Documents and things are to be produced as soon as is reasonably possible after they are located or obtained and no later than thirty (30) days after the discovery of the further information.

2. The terms defined below and the individual requests for production and inspection are to be construed broadly to the fullest extent of their meaning in a good faith effort to comply with the Federal Rules of Civil Procedure.

3. If You have any good faith objections to any request or any part thereof, the specific nature of the objection and whether it applies to the entire request or to a part of the request shall be stated. If there is an objection to any part of a request, then the part objected to should be identified and documents responsive to the remaining unobjectionable part should be timely produced.

4. Defendant seeks production of the documents set forth in the numbered requests below in Your possession, custody, and/or control, including non-privileged, non-work-product documents in the possession of Your agents, representatives, or any entities Plaintiff has the legal right to control.

5. Any alteration of a responsive document, including notes, underlining, stamps, drafts, revisions, modifications and other versions of a final document, is a separate document and is to be produced as a separate document.

6. Each request shall be answered on the basis of Your entire knowledge after a reasonable and good faith inquiry has been made and a search has been conducted.

7. Pursuant to Fed. R. Civ. P. 34(b), documents shall be produced as they are kept in the usual course of business or segregated as responsive to a specific request enumerated in this Request for Production of documents. If documents and things are produced as they are maintained in the normal course of business: (a) all associated file labels, file headings thereon, and file folders shall be produced together with the responsive documents from each file; (b) all documents containing markings thereon that cannot be legibly or accurately copied shall be produced in their original form; otherwise, You may produce photocopies; and (c) each page shall be given a discrete production number.

8. The documents requested shall be produced in their entirety, including all attachments and enclosures.

9. Documents shall be produced in accordance with the following parameters: documents shall be provided as black and white, Group IV single page TIFF images, 300 DPI ("Dots per inch"), named the same as the Bates number (without an embedded spaces or special characters). Color images will be provided in jpg/jpeg format. All non-redacted Excel files shall be produced in Native format. As standard practice, no other native files will be produced. Other native files will only be provided as the parties may agree (on an individual document-by-document basis) or as the Court may order.

10. For all documents, any family relationship should be captured and reflected in the production.

11. Documents not otherwise responsive to this discovery request shall be produced if such documents mention, discuss, refer to or explain the documents called for by this discovery request, or if such documents are attached to documents called for by this discovery request and constitute routing slips, transmittal emails, transmittal memoranda, or cover letters.

12. If You withhold documents on the grounds of privilege (including work product immunity), You must provide a privilege log on a document-by-document basis. The following

information should be provided (as applicable) in the privilege log for each document: (1) unique document identification number; (2) document type; (3) attachments; (4) date; (5) author; (6) recipient(s); (7) copyee(s); and (8) privilege or protection claimed.

13. For those documents that contain a series of e-mail communications in a single document (“email string”), it shall be sufficient to log the ‘string’ without separate logging of each included communication, but reference to the document as an “email string” should be made in the document description field of the log and it shall be noted if there are any e-mails that do not include a lawyer.

14. Any privilege log or list shall be produced in a “live” Excel spreadsheet or other similar, searchable electronic format.

15. Any purportedly privileged document containing non-privileged material must be produced, redacting only the portion purportedly privileged.

16. Any documents no longer in existence or in the possession or control of defendant shall be listed, stating the circumstances surrounding and authorization for the loss, destruction, or disposal of such document.

DEFINITIONS

1. The word document means the original or any copy of any and all document(s), as the term “document” is defined in Fed. R. Civ. P. 34 and shall include without limitation, any diary, calendar, electronic mail, text, social media post, blog, or Instagram, or digital or electronic record, and any and all attachments thereto, book, pamphlet, periodical, letter, memorandum, telegram, report, record, study, handwritten note, map, drawing, working paper, chart, paper, graph, index, tape, data sheet, data processing or other computerized, digital, or electronic record, or any other written, recorded, transcribed, taped, filmed, print screen, printout or graphic matter, however produced or reproduced, to which You have or have had access.

2. “GEO” means the corporation plaintiff named to defend this action.

3. “ICE” means the Bureau of Immigration and Customs Enforcement, an agency of the United States Department of Homeland Security and all of its officers, principals, agents, representatives, and any parent, affiliate, sister, subsidiary, predecessor, successor or assignee of it, and its principals, operating divisions, present or former administrators, employees, servants, officers directors, agents, representatives, attorneys, and any other persons or entities acting on behalf of or under the direction, authorization or control of ICE.

4. “NWDC” means the Northwest Detention Center, the facility located at 1623 East J Street, Tacoma, Washington.

5. The terms relating to, relate to, and related to, mean consisting of, identifying, concerning, referring to, alluding to, responding to, in connection with, commenting on, in response to, about, regarding, explaining, discussing, showing, describing, studying, reflecting, analyzing or constituting.

6. “VWP” means the Voluntary Work Program as defined by Standard 5.8 in ICE’s Performance-Based National Detention Standards 2011 (“PBNDS”).

7. The terms You, Your, or the State of Washington (“State”) means Plaintiff and all employees, agents, attorneys, investigators, other representatives and all other persons acting or purporting to act on its behalf.

OBJECTIONS

These requests do not seek disclosure of attorney-client communications or invasion of any other privileges protected under law. However, in the event You object to answering any request or producing any documents, in whole or in part, state Your objection and the factual and legal reasons supporting the objection with particularity. Any objection necessitating the entry of a confidentiality or protective order shall be communicated to us and should not delay Your timely responses to these requests for production. If You object to answering only part of a request for production, then specify the part to which You object and answer or produce the remainder. For

any document or communication withheld, provide a list for each detailing 1) a description of the document, 2) nature of the privilege asserted or basis of withholding, 3) subject matter and date, 4) type of communication or document, and 5) the author and recipient. ANY OBJECTION THAT IS NOT ASSERTED MAY BE DEEMED TO HAVE BEEN WAIVED.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 38: To the extent not already produced, documents sufficient to show the State's calculation of disgorgement, including those used to calculate "fair market value" of detainee work, the extent of GEO's alleged unjust enrichment, and the "number and value of jobs GEO's practice withheld from Washington's work force" that the State refers to in its responses to Interrogatory No. 4.

RESPONSE:

REQUEST FOR PRODUCTION NO. 39: To the extent not already produced, all documents and communications containing descriptions of detainee work at the NWDC such as affidavits, citizen complaints, and personnel or employment records, including those provided to You by current or former detainees, representatives at Labor and Industries, or representatives of AG Ferguson's Campaign.

RESPONSE:

REQUEST FOR PRODUCTION NO. 40: To the extent not already produced, any and all documents or drafts of press releases, media announcements, or similar public communications that relate to the allegations included in the Complaint in the above-captioned case.

RESPONSE:

REQUEST FOR PRODUCTION NO. 41: To the extent not already produced, any and all information, including correspondence and other documents, that the State may have shared with any potential expert witness, including experts.

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RESPONSE:

REQUEST FOR PRODUCTION NO. 42: To the extent not already produced, all documents reflecting non-monetary compensation GEO provided to detainees for their participation in the VWP.

RESPONSE:

REQUEST FOR PRODUCTION NO. 43: To the extent not already produced, any documents the State intends to rely upon in its case to prove unjust enrichment or that GEO is an employer subject to Washington's Minimum wage Act.

RESPONSE:

REQUEST FOR PRODUCTION NO. 44: To the extent not already produced, all documents with communications between the State and county or municipal entities, including Pierce County and the City of Tacoma, regarding the NWDC.

RESPONSE:

REQUEST FOR PRODUCTION NO. 45: To the extent not already produced, all documents sufficient to show the number of jobs that the State alleges could be open for Washington state citizens if GEO did not operate the VWP at the NWDC.

RESPONSE:

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2 REQUEST FOR PRODUCTION NO. 46: To the extent not already produced, documents
3 sufficient to show how the State calculates staffing needs for each Washington Department of
4 Corrections facility.

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8 **RESPONSE:**

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10 REQUEST FOR PRODUCTION NO. 47: To the extent not already produced, all documents
11 sufficient to show the “fair wages and contract obligations in Pierce County, Washington” that the
12 State refers to in its responses to GEO’s first set of discovery requests.

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14 **RESPONSE:**

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16 REQUEST FOR PRODUCTION NO. 48: All correspondence, written, and electronic
17 communications (including emails, voice messages, text messages, Facebook messages and any
18 other messages sent via social media or other messaging services) between the State and
19 Ugochukwu Goodluck Nwauzor, Fernando Aguirre-Urbina, Chao Chen, Jamal Whitehead,
20 Lindsay Halm, Adam Berger, Devin Theriott-Orr, or Andrew Free (or their agent, family member
21 or representative) regarding the case *Nwauzor et al. v. The GEO Group, Inc.*, Case No. 3:17-cv-
22 05679-RJB (formerly captioned *Chen v. The GEO Group, Inc.*, Case No. 3:17-cv-05679-RJB) and
23 this case.

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25 **RESPONSE:**

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27 REQUEST FOR PRODUCTION NO. 49: All documents that show each detainee You claim
28 GEO should have paid minimum wages was legally authorized to be employed in the United States
29 and to be eligible for employment by GEO at the NWDC.

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31 **RESPONSE:**

1 REQUEST FOR PRODUCTION NO. 50: All documents showing that VWP participants
2 performed tasks necessary and essential to operations of the NWDC.

3 **RESPONSE:**
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6 REQUEST FOR PRODUCTION NO. 51: Documents sufficient to show the policies and
7 procedures of any inmate or detainee work program operated by any Washington state entity, or
8 contractor for Washington state that provides detention or private prison services for the State of
Washington .

9 **RESPONSE:**
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13 REQUEST FOR PRODUCTION NO. 52: Documents sufficient to show the monetary or non-
14 monetary compensation of all Washington State inmates or detainees for their participation in any
15 work program in any state facility or any contractor that provides detention or private prison
services for the State of Washington.

16 **RESPONSE:**
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20 REQUEST FOR PRODUCTION NO. 53: All contracts between the State of Washington and any
21 contractor that provides detention or prison services or facilities for the State of Washington.

22 **RESPONSE:**
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26 REQUEST FOR PRODUCTION NO. 54: All documents reflecting financial transactions, such
27 as invoices for reimbursement of payments for any inmate or detainee work programs, between
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1 Washington and any contractor that provides detention or private correctional or detention services
2 for the State of Washington.

3 **RESPONSE:**

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6 REQUEST FOR PRODUCTION NO. 55: Documents from Washington sufficient to show
7 guidance to any contractor regarding inmate or detainee work programs at any facility that provides
8 detention or private prison services for the State of Washington.

9 **RESPONSE:**

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12 REQUEST FOR PRODUCTION NO. 56: All versions, including drafts, of Washington State
13 prisoner/detainee manuals discussing prisoner/detainee work programs.

14 **RESPONSE:**

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18 REQUEST FOR PRODUCTION NO. 57: Documents sufficient to show all amounts paid to
19 prisoners/detainees incarcerated or detained by Washington State who participated in offender
work programs since 2005.

20 **RESPONSE:**

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24 REQUEST FOR PRODUCTION NO. 58: Documents sufficient to show the number of hours
25 worked by all detainees/prisoners incarcerated or detained by Washington State who participated
in offender work programs since 2005.

26 **RESPONSE:**

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2 REQUEST FOR PRODUCTION NO. 59: All documents relating to discussions about amounts
3 paid to prisoners/detainees incarcerated or detained by Washington State who participated in
4 offender work programs since 2005.

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8 **RESPONSE:**

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10 REQUEST FOR PRODUCTION NO. 60: Documents sufficient to show each and every
11 employee that supervised prisoners/detainees incarcerated or detained by Washington State who
12 worked in the laundry of a Washington State correctional or detention operated or controlled
13 facilities since 2005.

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15 **RESPONSE:**

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17 REQUEST FOR PRODUCTION NO. 61: Documents sufficient to show each and every
18 employee that supervised prisoners/detainees incarcerated or detained by Washington State who
19 worked in the kitchen of a Washington State correctional or detention operated or controlled
20 facilities since 2005.

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22 **RESPONSE:**

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24 REQUEST FOR PRODUCTION NO. 62: Documents sufficient to show each and every
25 employee whose main job duty was to perform janitorial tasks at a Washington State operated or
26 controlled correctional or detention facilities since 2005.

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28 **RESPONSE:**

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30 REQUEST FOR PRODUCTION NO. 63: All documents that relate to staff recruitment by
31 Washington State Department of Corrections or Department of Social and Health Services

1 operated or controlled facilities from local communities and those facilities' contribution to the
2 local economy through salaries and purchase of goods and services.

3 **RESPONSE:**

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6 REQUEST FOR PRODUCTION NO. 64: All documents that show any control GEO, rather than
7 ICE, had over the VWP and its participants at NWDC.

8 **RESPONSE:**

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12 REQUEST FOR PRODUCTION NO. 65: All documents that show the Attorney General has law
13 enforcement powers that it is exercising in this case to enforce Washington's Minimum Wage Act
or to seek unjust enrichment.

14 **RESPONSE:**

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18 REQUEST FOR PRODUCTION NO. 66: All documents reviewed or relied upon by the Attorney
19 General to make his decision to exercise his law enforcement authority to bring a Minimum Wage
Act or unjust enrichment claim against GEO.

20 **RESPONSE:**

1 Dated: July 2, 2018

NORTON ROSE FULBRIGHT US LLP

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3
4 By /s/ Andrea L. D'Ambra
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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I, Sean M. Topping, certify that on July 2, 2018, I caused to be served a true and correct copy of the above GEO's Second Set of Requests For Production Propounded to Plaintiff, via Electronic Mail as follows:

Office of the Attorney General
Bob Ferguson
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I certify under penalty of perjury under the State of Washington that the above information is true and correct.

Dated this 2nd day of July 2018, at New York, NY

/s/ Sean M. Topping
Sean M. Topping